

Flexibility in the HCFC Allowance System

The EPA established the framework for the HCFC allowance system on January 21, 2003 (68 FR 2820). The rule (referred to as the 2003 Final Rule) established an allowance transfer mechanism to provide flexibility to the regulated community and laid the groundwork for the flexible mechanisms within the HCFC phaseout program today. In preparation for the 2003 Final Rule, EPA issued an advanced notice of proposed rulemaking (ANPRM) and a notice of proposed rulemaking (NPRM). The preambles to the ANPRM, NPRM and 2003 Final Rule provide detailed insight into the development of the HCFC allowance system. While companies should always refer to the most recent regulations for formal requirements and specific information, this fact sheet highlights the flexibilities incorporated into the HCFC allowance system.

Abbreviations

CAA – Clean Air Act

ODS – Ozone-depleting substance

ODP – Ozone depletion potential

Inter-pollutant Transfers

Any allowance holder may transfer their current year allowances for one HCFC into allowances for another HCFC in that same year (40 CFR 82.23(b)). Every transfer is weighted by the ozone depletion potential (ODP) of the two chemicals involved in the transfer. As stated in the preamble to the 2003 Final Rule, “inter-pollutant transfers allow companies to respond to market forces and achieve economies of scale in production and import.” An offset of 0.1 percent is required for any inter-pollutant transfer as a way to meet requirements in section 607 of the Clean Air Act (CAA), which says that transfers must result in less production or consumption than would occur in the absence of such a transfer.

Example of an inter-pollutant transfer: A company has 10,000 kilograms of HCFC-142b allowances, and it wishes to transfer those allowances into HCFC-22 for a specific year. The result of the transfer would be 11,806 kilograms of HCFC-22, based on the ODPs of the two chemicals (0.065 and 0.055, respectively), and the 0.1 percent offset.

Step 1: Convert based on ODP

$$\frac{10,000 \text{ kg HCFC-142b} \times 0.065}{0.055} = 11,818 \text{ kg HCFC-22}$$

Step 2: Subtract the 0.1 percent offset

$$11,818 \text{ kg} - (0.001)(11,818 \text{ kg}) = 11,806 \text{ kg HCFC-22}$$

EPA intends to approve inter-pollutant transfers, including those between companies, only on a year-by-year basis. The EPA will process inter-pollutant transfers within three working days after receiving the complete request. EPA will send a reply showing the new balance of unexpended allowances. EPA’s decision to provide such a fast processing time was intended to ensure that transfers are easy and EPA’s role is not disruptive to market transactions.

Inter-company Transfers

Inter-company transfers are transfers of allowances from one company to another company (40 CFR 82.23(a)). For example, Company A would transfer its allowances to Company B who wished to have more allowances. Production, consumption and Article 5 allowances all may be transferred on a calendar-year basis. Additionally, one company may permanently transfer its baseline allocation to another company. EPA processes all transfer requests, with the requisite 0.1 percent offset, within three working days of receiving the complete request.

Inter-company and Inter-pollutant Transfers

Companies can conduct both an inter-company and inter-pollutant transfer simultaneously (40 CFR 82.23(c)). For example, Company A, who holds HCFC-123 allowances, can transfer its HCFC-123 allowances to Company B, who then transfers the allowances to HCFC-22 based on the relative ODPs. In this instance, if Company B wanted HCFC-22 (ODP=0.055), Company A would have to transfer 2.75 kg of HCFC-123 (ODP=0.02) for each kg of HCFC-22, plus a 0.1 percent offset. If Company B wanted 100,000 kg of HCFC-22, the resultant transfer would be:

Company A transfers 275,000 kg of HCFC-123, plus the 0.1 percent offset of 275 kg

Company B receives 100,000 kg of HCFC-22

EPA intends to approve inter-pollutant transfers, including those between companies, only on a year-by-year basis. EPA processes all transfer requests, with the requisite 0.1 percent offset, within three working days of receiving the complete request.

Refund of Consumption Allowances for Exported HCFCs

The EPA requires a company to expend both consumption and production allowances to be able to domestically produce HCFCs (40 CFR 82.15(a)(2)). To be able to import, the EPA requires a company to expend consumption allowances (40 CFR 82.15(b)). A company may submit the proper documentation for review to the agency to verify the export of an HCFC for which consumption allowances were expended and request a reimbursement of such consumption allowances (See 40 CFR 82.20 for details). The agency will review the documentation and issue a notice to either deny the request or grant the request. If the agency reimburses consumption allowances, the granting of such allowances will be effective on the date the notice is issued. In the case of HCFC blends, allowances would be refunded for each HCFC in the blend, weighted by the percentage of that chemical within the blend. All refunds of consumption allowances for exported HCFCs are only valid for the year in which the HCFCs were exported.

Additional Flexibilities

- EPA decided in the 2003 Final Rule not to group Class II HCFCs in order to allow for maximum transfer flexibility within Class II substances. In contrast, Class I substances were grouped and transfers were only permitted between substances in the same group.
- The offset required in accordance with section 607 of the CAA is only 0.1 percent for HCFCs, in contrast to one percent for Class I substances. Commenters to the proposed 2003 rule said that an offset ratio no higher than the proposed 0.1 percent would contribute to flexibility in the system.
- International transfers of production and consumption allowances are allowed, with certain specifications as laid out in 40 CFR 82.18(c) and 82.20(b).

Reporting and Recordkeeping Requirements

In addition to requesting permission for inter-pollutant and/or inter-company transfers, companies must report to EPA on a quarterly basis. Quarterly and annual reports document the quantity (in kilograms) of HCFCs produced, imported, exported, transformed and/or destroyed. EPA encourages electronic reporting, which is utilized by many companies as a means of reducing reporting and recordkeeping costs. The full recordkeeping and reporting requirements appear at 40 CFR 82.24. All relevant reporting forms, along with instructions for electronic reporting, can be found at <http://www.epa.gov/ozone/record/classtwo.html>.

For More Information

Please visit EPA's website (<http://www.epa.gov/ozone/title6/>) for more information, including the HCFC rulemaking notices referenced in this document, as well as additional fact sheets and guidance. This document is provided solely for informational purposes. It does not provide legal advice, have legally binding effect, or expressly or implicitly create, expand, or limit any legal rights, obligations, responsibilities, expectations, or benefits in regard to any person. It is intended to assist companies in understanding key provisions of the HCFC allowance system.

Updated on 3/15/2012